

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAPISTRANO UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012100276

ORDER TO SHOW CAUSE WHY THIS
MATTER SHOULD NOT BE
DISMISSED

This matter was filed with the Office of Administrative Hearings (OAH) on October 5, 2012, and set for hearing on November 28, 2012. On November 21, 2012, Student filed a request to remove the matter from the calendar pending approval of a settlement agreement by District's governing board. On the same date, OAH staff informed Student's attorney that the hearing would not be vacated unless a copy of the signed signature page of the settlement agreement was submitted to OAH. On November 27, 2012, Student submitted a request to vacate the hearing date along with a copy of the signature page of a settlement agreement that included all of the signatures except that of Student's father. OAH vacated the hearing date and scheduled a status conference for January 23, 2012.

On January 17, 2013, District informed OAH staff that the governing board approved the settlement on January 7, 2013, and that Student would be notified as soon as possible. On January 22, 2012, Student informed OAH staff that a dismissal or withdrawal would be submitted by the end of that day, or early the following morning. Nothing was submitted.

On January 23 2012, the undersigned Administrative Law Judge (ALJ) convened a status conference. District confirmed that it approved the settlement agreement. Student indicated a dismissal would be submitted that day or the following day. The parties agreed to conduct another status conference on February 6, 2013.

On January 31, 2013, OAH staff called the parties concerning the status of the request for dismissal. Student informed OAH staff that the parties were working on a continuance of the status conference. Nothing was submitted.

On February 6, 2013, the undersigned ALJ contacted Student's attorney for the status conference. No one answered the phone. A message was left to contact OAH for the status conference and that an order to show cause may be issued. District's attorney participated in the status conference, confirmed that the governing board approved the settlement and that Student had been informed of this, and stated that a copy of a dismissal form was sent to Student.

Special education matters must be heard and resolved within short time frames. (Ed. Code, 56502, subd. (f).) There is no dispute that the parties reached a settlement agreement that was approved by the District's governing board. There is no reason for Student's failure to either submit a dismissal or withdrawal of the case, or appear at the status conference. Considering the lengthy and repeated delays in this matter, Student has until February 8, 2013, at 5:00 p.m. to either submit a request for dismissal or withdrawal of this matter, or to show cause in writing, supported by declarations under penalty of perjury, as to why this matter should not be dismissed. District may file a response no later than February 12, 2013, at 5:00 p.m.. A telephone conference shall be conducted on February 13, 2013, at 2:00 p.m. to determine if this matter should be dismissed.

Dated: February 6, 2013

/s/

JUDITH A. KOPEC
Division Presiding Administrative Law Judge
Office of Administrative Hearings